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ROBERT HUNTER BIDEN

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION**

ROBERT HUNTER BIDEN, an
individual,

Plaintiff,

vs.

PATRICK M. BYRNE, an individual,

Defendant.

Case No. 2:23-cv-09430-SVW-PD

Hon. Stephen V. Wilson

**PLAINTIFF ROBERT HUNTER
BIDEN'S *EX PARTE* APPLICATION
FOR AN ORDER REQUIRING
DEFENDANT TO SHOW CAUSE
WHY HE SHOULD NOT BE HELD
IN CONTEMPT**

Complaint Filed: November 8, 2023
Trial Date: October 14, 2025

PLEASE TAKE NOTICE that Plaintiff Robert Hunter Biden, by and through his attorneys of record, hereby applies *Ex Parte* to this Court for an order directing Defendant Patrick M. Byrne to appear personally before the Court to show cause why he should not be held in contempt for failure to comply with the following Court orders (collectively, the “Orders”): (i) the August 5, 2025, Order Declining To Grant Default Judgment; Continuing Trial; And Reopening Limited Discovery For Plaintiff requiring Defendant provide Plaintiff an email address for electronic service or a physical address for mail or overnight delivery service of documents (ECF No. 311); and (ii) the August 14, 2025, Order directing Defendant to appear in person before the Court on August 18, 2025 (ECF No. 318). Notice cannot be given to Defendant because he is unrepresented by counsel and has failed to provide his contact information to Plaintiff as ordered by the Court and as required by the Court’s Local Civil Rules.

Dated: August 21, 2025

RICHARD A. HARPOOTLIAN, PA

By: /s/ Phillip D. Barber

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MEMORANDUM OF POINTS AND AUTHORITIES

On August 5, 2025, the Court issued the Order Declining To Grant Default Judgment; Continuing Trial; And Reopening Limited Discovery For Plaintiff (ECF No. 311) (the “August 5 Order”). This Order provided, in part:

Defendant must provide Plaintiff with an email address for electronic service or a physical address for mail or overnight delivery service of documents. Until Defendant does so, the Court will not allow Mr. Murphy to withdraw from the case.

In accordance with that provision of the August 5 Order and because Defendant has not provided Plaintiff with an email address for electronic service or a physical address for mail or overnight delivery service of documents, Plaintiff served document requests on Mr. Murphy on August 7, 2025 without objection, and, on August 12, 2025, Plaintiff sent Mr. Murphy an email pursuant to Local Civil Rule 7-3 concerning a motion for further sanctions.

In response to the August 12, 2025, email, Mr. Murphy stated that he is no longer legally authorized to accept service of any documents in the case and that he will not accept service of any documents on Defendant.

Accordingly, on August 13, 2025, Plaintiff made an *ex parte* application to enforce the August 5 Order. The Court set a hearing on the application for August 18, 2025, and ordered Defendant to appear personally at the hearing (ECF No. 318) (the “August 14 Order”). At that hearing, the Court stated on the record that it was satisfied Defendant had actual notice of the order requiring his attendance at the hearing. Yet Defendant failed to appear personally at the hearing, failed to appear through counsel, and failed to communicate any reason for his failure to the Court, and failed to provide Plaintiff’s counsel with contact details for service of process. In response, the Court stated at the hearing that it is inclined to order Defendant to show cause why he should not be held in contempt.

Plaintiff now moves for an order requiring Defendant to show cause why he

1 should not be held in contempt. Plaintiff argues that (1) the Court has inherent power
2 to enforce its lawful orders, (2) the Court has personal jurisdiction over Defendant, (3)
3 Defendant has willfully violated the Court's orders, and (4) the appropriate remedy is a
4 monetary penalty and, if the contempt is not purged within 30 days by payment of a
5 monetary penalty, the issuance of a bench warrant. For reasons explained below,
6 Plaintiff does not request entry of a default as a sanction at this time.

7 **Inherent Power**

8 “[C]ourts have inherent power to enforce compliance with their lawful orders
9 through civil contempt.” *FTC v. Productive Mktg., Inc.*, 136 F. Supp. 2d 1096, 1107
10 (C.D. Cal. 2001) (quoting *Spallone v. United States*, 493 U.S. 265, 276 (1990)). “A
11 party may be held in civil contempt where it “fail[ed] to take all reasonable steps within
12 the party’s power to comply [with a specific and definite court order].” *Id.* (quoting *In*
13 *re Dual-Deck Video Cassette Recorder Antitrust Litig.*, 10 F.3d 693, 695 (9th Cir.
14 1993).

15 **Personal Jurisdiction**

16 The Court must have personal jurisdiction over a party to hold him in contempt.
17 *See, e.g., Reebok Int’l Ltd. v. McLaughlin*, 49 F.3d 1387, 1390 (9th Cir. 1995). Plaintiff
18 asserted the Court’s personal jurisdiction over Defendant in the Complaint. (Compl. ¶
19 8.) Defendant denied the allegation (Answer ¶ 8), but he never challenged the assertion
20 of personal jurisdiction by motion under Rule 12 and so has waived any challenge to
21 the Court’s personal jurisdiction. Fed. R. Civ. P. 12(h)(1)(B); *see also, e.g., In re ZF-*
22 *TRW Airbag Control Units Prods. Liab. Litig.*, 601 F. Supp. 3d 625, 696 (C.D. Cal.
23 2022).

24 **Violation of Orders**

25 “The party moving for a civil contempt order must show by clear and convincing
26 evidence that the alleged contemnor violated the court’s order.” *FTC v. Productive*
27 *Mktg., Inc.*, 136 F. Supp. 2d 1096, 1107 (C.D. Cal. 2001). Here, it is undisputed that
28 Defendant violated the August 5 Order, by not retaining new counsel or providing an

1 address for service of papers, and that Defendant violated the August 14 Order by not
2 appearing in person at the hearing on August 18, 2025.

3 **Remedy**

4 The typical penalty for a defendant who fails to defend an action is entry of a
5 default, followed by entry of a default judgment, followed by post-judgment
6 proceedings to enforce the judgment. *E.g., Solano v. Preciado*, 738 F. Supp. 3d 1356,
7 1362 (D. Or. 2024); *New Show Studios LLC v. Needle*, No. 214CV01250CASMRAWX,
8 2016 WL 7017214, at *10 (C.D. Cal. Dec. 1, 2016). “In addition to ordering monetary
9 sanctions, the court’s civil contempt authority includes the power to issue a bench
10 warrant for the contemnor’s arrest.” *Rob Kolson Creative Productions, Inc. v. Stander*,
11 2020 WL 4334116, at *8 (C.D. Cal. May 20, 2020 (citing *Perry v. O'Donnell*, 759 F.2d
12 702, 706 (9th Cir. 1985). However, the “the district court should apply the least
13 coercive sanctions (e.g., a monetary penalty) reasonably calculated to win compliance
14 with its orders.”” *United States v. Flores*, 628 F.2d 521, 527 (9th Cir. 1980) (internal
15 quotation marks omitted).

16 Entry of a default judgment would not obviate the need for the Court to use its
17 coercive powers to enforce its orders in this case. Entry of a default judgment would
18 only “kick the can down the road,” forcing this Court or some other court to use coercive
19 powers to force Defendant to disclose or disgorge assets. Doing so would violate the
20 principle that public policy favors adjudication on the merits. *See Eitel v. McCool*, 782
21 F.2d 1470, 1472 (9th Cir. 1986) (“Cases should be decided upon their merits whenever
22 reasonably possible.”). If the Court must exercise its coercive power over Defendant at
23 some point in this legal action, it would be better to do so now, to enforce a right to
24 have claims of wrongdoing adjudicated on the merits in open court, rather than later, to
25 enforce a right to seize property created only by a procedural default.

26 Plaintiff therefore respectfully requests that Defendant be ordered to appear,
27 either in person or through an attorney who is a member of the California bar admitted
28 to practice before this Court, at a hearing to show good cause why he should not be held

1 in contempt for his willful violation of Court orders. If he fails to present good cause,
2 the Court should enter a monetary penalty for his contempt. Plaintiff requests the
3 monetary penalty *not* be a payment of money to Plaintiff. Any reasonable amount for
4 a direct monetary sanction (e.g., the costs Plaintiff has incurred in motion practice due
5 to Defendant's contempt) would be a trivial sum to a billionaire. Instead, Plaintiff
6 requests the Court order Defendant to pay a substantial sum (Plaintiff suggests \$5
7 million) into the registry of the Court as a bond against a possible judgment in favor of
8 Plaintiff. Defendant would only lose the money if he loses on the merits, and then only
9 as much as the judgment. The cost to Defendant of being denied the use of his money
10 until then would be the sanction for his misconduct. If Defendant is unable to make
11 such a payment, he can appear before the Court to explain why. Plaintiff notes that on
12 July 15, 2022, Defendant gave an official statement under penalty of law to the House
13 Select Committee to Investigate the January 6th Attack on the U.S. Capitol in which he
14 claimed to have personally paid "substantially above" \$12 million on challenges to the
15 2020 presidential election, Tr. Patrick Byrne Interview at 226, *available at*
16 <https://www.govinfo.gov/app/details/GPO-J6-TRANSCRIPT-CTRL0000915977>, and
17 on February 11, 2024, he publicly claimed to have personally spent "about \$40 million"
18 on election challenges, <https://x.com/PatrickByrne/status/1756738433467474402>, so
19 the requested sum appears to be well within his means.

20 If Defendant does not appear, or if he does appear but fails to show cause, the
21 Court should enter an order giving him 30 days to purge his contempt by making the
22 aforementioned payment into the registry of the Court and complying with pending
23 court orders, and further providing that if he does not purge the contempt within 30
24 days, the Court will issue a bench warrant for his arrest. An outstanding warrant would
25 prevent him engaging in international travel or engaging in public speaking
26 appearances. Plaintiff believes that sanction, or at least the credible threat of that
27 sanction, is the only sanction that will cause Defendant to comply with the Court's
28 orders.

1 Finally, Plaintiff respectfully requests the Court order that, going forward,
2 Defendant may not voluntarily terminate an attorney who has appeared in this case on
3 his behalf without prior leave of the Court granted upon a showing of good cause.
4 Defendant has already terminated eight lawyers in this case (John W. Howard, Scott J.
5 Street, Michelle D. Volk, Peter C. Shelling, Nabil Abu-Assal, Doug Roy, Michael C.
6 Murphy, Carmen R. Selame, Tom Yu, and Eric Neff). His right to change lawyers
7 cannot be limitless.

8 Dated: August 22, 2025

RICHARD A. HARPOOTLIAN, PA

9
10 By: /s/ Phillip D. Barber

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